RECORD AND BRIEFS

No. 16-237

IN THE

Supreme Court of the United States

JAE LEE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR ASIAN AMERICANS ADVANCING JUSTICE | AAJC AND OTHER IMMIGRANTS' RIGHTS GROUPS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI CURIAE* AND SUMMARY OF ARGUMENT

Amici are non-profit organizations that promote equality, justice, and civil rights for immigrants.[1] A full list of amici is included in Appendix A.

Amici are united in urging this Court to grant the petition. The issue in this case is not only important for Mr. Lee's family but also for millions of other American families. There are currently nearly 23 million noncitizens residing in the United States (representing 7% of the American population).[2] Under current immigration statutes, families face a unique and devastating threat if any noncitizen family member gets caught up in the criminal justice system. A conviction on any one of a wide array of offenses, including first-time, minor, and non-violent offenses, like drug possession, subjects noncitizens to mandatory deportation and detention pending removal proceedings. For immigrant and mixed-status families, the problems that currently confront American families, like a family member facing drug addiction problems, have far more drastic consequences. As in Mr. Lee's case, a conviction for even "a relatively small-time drug

1. No party or its counsel wrote or helped write this brief, or gave money intended to fund its writing or submission. All counsel of record received timely notice and consented to the filing of this brief. This brief was entirely paid for by the Amici and or their attorneys. *See* S. Ct. R. 37.

2. The Henry J. Kaiser Family Foundation, *Population by Citizenship Status in 2015*, at Table 1 (2016) http://kff.org/other/state-indicator/distribution-by-citizenship-status/ (last visited, Oct. 4, 2016) (reporting on the population number of noncitizens in the United States which was 22,984,400 people).

offense" means that a parent, or teenage child, or other family breadwinner or caregiver will be "exile[d]" from the United States, and the defendant's family confronted with the prospect of permanent separation. App. 10a.

This Court has already recognized that counsel representing noncitizen defendants in criminal proceedings must advise their clients about the clear deportation consequences of taking a guilty plea. *Padilla v. Kentucky*, 559 U.S. 356 (2010). In reaching that holding, this Court recognized that deportation is a harsh and permanent penalty and that preserving family unity and ties to the United States will be the primary concern for many noncitizen defendants. *Id.* at 374. Given the realities of deportation, "preserving the client's right to remain in the United States may be more important to the client than any potential jail sentence." *Id.* at 368 (quoting *INS v. St. Cyr*, 533 U.S. 289, 322 (2001)).

Unfortunately, the instances of noncitizen defendants receiving deficient advice of counsel—even after making clear that their primary goal is avoiding deportation—is all too common. Lower courts are currently split on the remedy available to noncitizen defendants when their attorneys provide constitutionally deficient advice regarding the immigration consequences of a guilty plea. Under the *Strickland* test, some courts hold that noncitizen defendants lack the ability to vacate their plea if there is strong evidence of guilt. Pet. at 12-13. These courts deny the existence of cognizable prejudice even if there is undisputed evidence in individual cases that the noncitizen defendant would have exercised his or her constitutional right to go to trial had they known that a plea would result in mandatory deportation.

Amici submit this brief to highlight the practical—and moral—importance of resolving the prejudice question raised by the petition. *First*, the conflict is widespread and affects noncitizen defendants and their families throughout the nation, including in state courts, which are also divided on the prejudice question.

Second, the analysis of lower courts that deny relief in cases like Mr. Lee's misapprehends this Court's precedent. Their holding that it is irrational for a noncriminal defendant to go to trial—when proof of guilt is allegedly strong—rather than accept a plea that results in automatic deportation is *offensive*. It ignores the experience of thousands of defendants and families who have faced this dilemma, and who have made it clear that their predominant goal is taking every step possible, including the constitutionally protected step of insisting on a trial, to avoid deportation.

A narrow prejudice inquiry for deportation-related harms, one that uniquely burdens immigrant defendants and their families, also violates constitutional tradition. In almost every other context, courts recognize the overwhelming importance of family ties, and legal rules are designed to honor and protect family integrity as a core American value. *See, e.g.*, *Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) ("Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition.")

It is a perverse result if noncitizen defendants and their families somehow have less protection because counsel provided constitutionally deficient advice about

deportation consequences in the first place. The Sixth Circuit below deemed Mr. Lee's desire to go to trial "a Hail Mary," pass. App. 4a. But that analysis ignores all that Mr. Lee, and similarly situated defendants have to lose, such as residence in the only country they have known since childhood and ability to be with their spouses, parents, and children. This Court should determine whether it is irrational as a matter of law for noncitizen defendants to insist on a trial, given the profound harm of taking a plea guaranteeing automatic deportation.

This is not an immigration question solely; the harms are also inflicted on American citizens, like Mr. Lee's elderly parents. The prejudice question invokes and tests our deepest moral commitments to family. And by denying relief, the Sixth Circuit and other courts threaten to undermine and unravel the important protections this Court imposed in *Padilla*. For all these reasons, amici urge the Court to grant the petition and clarify the relief available to Mr. Lee and other noncitizen defendants raising similar Sixth Amendment claims.

ARGUMENT

I. The petition raises issues of nationwide scope, and conflicting state high court decisions underscore the importance of granting review.

As the petition points out, federal circuits are deeply divided on the prejudice question raised in this case. *See* Pet. 12-20. The conflict extends even broader however. State courts are the most common forum for ineffective assistance of counsel claims. Yet state high courts are also split on the issue of when the deportation consequences

of a guilty plea establish prejudice. Some state courts have adopted a narrow definition of prejudice like the Sixth Circuit below—deeming the harms of mandatory deportation irrelevant if the court finds strong evidence of guilt. *See Segura v. State*, 749 N.E.2d 496, 505 (Ind. 2001) (reasoning that because defendant failed to show "that if counsel had performed flawlessly a conviction would not have resulted from a trial or a different penalty would have been imposed," he did not satisfy the prejudice prong); *Bahtiraj v. State*, 840 N.W.2d 605, 611-12 (N.D. 2013) (holding that defendant failed to satisfy the prejudice prong where strong evidence of guilt indicated that a reasonable defendant would not have gone to trial regardless of deportation consequences).

Other state high courts have adopted a broader prejudice test, recognizing that mandatory deportation can constitute prejudice for a noncitizen defendant, like Mr. Lee, even if there is strong evidence that the defendant committed the charged offense. *See Commonwealth v. Lavrinenko*, 38 N.E.3d 278, 291-92 (Mass. 2015) (holding that a defendant's familial ties, longtime legal residence status, and lack of connection to his native country are special circumstances that support the conclusion that the defendant would have placed "particular emphasis on immigration consequences in deciding whether to plead guilty"); *Zemene v. Clarke*, 768 S.E.2d 684, 691-92 (Va. 2015) (holding that a defendant could rationally decide to go to trial despite strong evidence against him); *State v. Sandoval*, 249 P.3d 1015, 1022 (Wash. 2011) (en banc) (holding that it was rational for the defendant to take his chances at trial given that deportation would separate him from his family and force him to leave the country he made his home); *cf. People v. Peque*, 980 N.Y.S.2d 280, 301-02 (N.Y. 2013) (weighing prejudice in analogous due

process context by looking to harms of deportation and defendant's ties to the United States, not just the strength of the prosecution's case).

These conflicting state court decisions further confirm that the issue presented is of national importance and that guidance from this Court is crucial. *See* Sup. Ct. R. 10(a) (one of the "compelling reasons" for certiorari is when "a United States court of appeals . . . has decided an important federal question in a way that conflicts with a decision by a state court of last resort"). The diverging federal and state decisions show that Mr. Lee's case is not an isolated problem. Noncitizen defendants throughout the country continue to receive deficient advice about the deportation consequences of taking a guilty plea, and the question of when prejudice ensues has divided courts and judges.

For the families and communities that amici serve, this has profound consequences. No family is immune, for example, from the heroin and opioid epidemics sweeping the nation.[3] But for immigrant families with noncitizen

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3. U.S. Department of Health & Human Services, *The Opioid Epidemic: By the Numbers*, 1, http://www.hhs.gov/sites/default/files/Factsheet-opioids-061516.pdf (last visited Oct. 10, 2016) ("Our nation is in the midst of an unprecedented opioid epidemic."); *see also* Katharine Q. Seelye, *In Heroin Crisis, White Families Seek Gentler War on Drugs*, The New York Times (Oct. 30, 2015), *available at* http://www.nytimes.com/2015/10/31/us/heroin-war-on-drugs-parents.html (explaining how "heroin use has climbed among all demographic groups" and how heroin addiction is affecting more families all across the nation); *see also, e.g.*, Maddie McGarvey, *Ravages of Heroin Addiction Haunt Friends, Families and Whole Towns*, NPR (Aug. 23, 2015), *available at* http://www.npr.org/2015/08/23/433575293/ravages-of-heroin-addiction-haunt-

members, the potential cost of an encounter with the criminal justice system is mandatory deportation, a particularly harsh and permanent penalty. Families in jurisdictions that recognize a narrow prejudice rule effectively lose one of the most important—and only—tools they have to try and keep their families together: asking counsel to pursue all options in criminal proceedings to avoid deportation. In a case like Mr. Lee's, that means that a noncitizen defendant could tell counsel multiple times that he cares most about remaining in the United States with his family, and also specifically seek reassurance from counsel when agreeing to a plea that he will not be deported (Pet. at 6-7; App. at 57a), yet still lose the right to go to trial because his attorney gives affirmatively incorrect advice.

Large numbers of families are affected by current divide among lower federal and state courts. Over 4.3 million noncitizens live in the Fifth and Sixth Circuits alone,[4] two circuits that apply a narrow prejudice rule. *See* Pet. at 12-13. The states within these circuits, such as Texas and Tennessee, are also home to some of the most rapidly growing immigrant populations in the United States.[5]

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friends-families-and-whole-towns (explaining nation-wide scope and personal toll on families from heroin addiction crisis).

4. The Henry J. Kaiser Family Foundation, *Population by Citizenship Status in 2015*, at Table 1 (2016) http://kff.org/other/state-indicator/distribution-by-citizenship-status/ (last visited, Oct. 4, 2016) (reporting that more than 4.3 million noncitizens reside in the states of Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and Texas).

5. *See* American Immigration Council, *New Americans in Tennessee*, https://www.americanimmigrationcouncil.org/sites/

And the impact on families is not confined by circuit or state boundaries. Noncitizen defendants like Mr. Lee can be prosecuted in a different jurisdiction than where they or their families live. In this case, for example, Mr. Lee's parents reside in Queens, New York. The Second Circuit would recognize potential prejudice in Mr. Lee's case, *see* Pet. at 14-15, yet the Sixth Circuit would deny relief. The circuit split on prejudice has literally divided a family, with courts in one circuit considering a noncitizen defendant's "very strong ties to the United States" (App. at 10a) as potentially sufficient to establish prejudice, but courts in another finding those ties largely irrelevant if alleged strong evidence of guilt exists.

II. The question presented is important because a narrow prejudice rule improperly ignores the humanitarian harms of deportation.

Today, we are increasingly a nation of immigrants, and mixed families are common. Immigrant families often have both naturalized and unnaturalized family members. At least 13.1 million legal permanent residents[6]

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default/files/research/new_americans_in_tennessee_2015.pdf (last visited Oct. 4, 2016) (showing the growing share of the immigrant population in Tennessee making up a total 4.7% of the total state population in 2013 which was an increase of more than 50% compared to the share in 2000); *see also* American Immigration Council, *New Americans in Texas*, https://www.americanimmigrationcouncil.org/sites/default/files/research/new_americans_in_texas_2015.pdf (last visited Oct. 4, 2016) (demonstrating a rapid increase of over 80% in the immigrant population in the last three decades culminating in a total immigrant population of 4,369,271 in Texas alone).

6. Bryan Baker & Nancy Rytina, *Estimates of the Lawful Permanent Resident Population in the United States*: January

and over 11 million undocumented residents currently live in the United States.[7] When their loved ones and family are considered, even more people are affected by the threatened deportation of unnaturalized family members. To give just a few examples, in 2012, nearly one in five undocumented adult immigrants was married to a United States citizen or lawful permanent resident,[8] and there were over 3.8 million citizen children in the United States with undocumented parents.[9] Comparable data is not readily available for lawful permanent residents, but when their spouses and children are considered, similar high rates of mixed-status families likely exist.

Federal laws vastly expanding the scope of offenses resulting in mandatory deportation—and removing discretion from immigration judges to grant relief—have changed the stakes for the millions of immigrant and mixed families currently living in the United States.[10] These families now live with the looming risk of deportation when family members encounter the criminal

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2013, at 3 (2014), https://www.dhs.gov/sites/default/files/publications/ois_lpr_pr_2013_0.pdf.

7. The Pew Ctr., *5 Facts About Illegal Immigration In The U.S.* (2016), http://www.pewresearch.org/fact-tank/2016/09/20/5-facts-about-illegal-immigration-in-the-u-s/.

8. *See* Ctr. for Am. Progress, *The Facts on Immigration Today*, https://www.americanprogress.org/issues/immigration/report/2014/10/23/59040/the-facts-on-immigration-today-3/#population (last visited Oct. 4, 2016).

9. *Id.*

10. *See, e.g.*, 8 U.S.C. §§ 1227(a)(2), 1229b(a)(3).

justice system.[11] And thousands of families have been torn apart due to criminal convictions. In 2015, for example, the United States Immigration and Customs Enforcement ("ICE") deported approximately 140,000 noncitizens with prior criminal convictions.[12] Recent data shows that a substantial percentage of annual deportations are for drug-related offenses, many for possession of marijuana.[13]

For affected families, deportation has profound consequences:

- Loss of a breadwinner can force families into poverty;
- Married partners lose the ability to live with their spouse;
- Parents are separated from children, causing psychological and emotional trauma to children remaining in the United States;[14]

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11. *See* Bryan Lonegan, *American Diaspora: The Deportation of Lawful Residents from the United States and the Destruction of Their Families*, 32 N.Y.U. Rev. L. & Soc. Change 55, 60 (2007); Nancy Morawetz, *Understanding the Impact of the 1996 Deportation Laws and the Limited Scope of Proposed Reforms*, 113 Harv. L. Rev. 1936, 1936 (2000).

12. U.S. Dep't Homeland Sec., ICE Enforcement and Removal Operations Report 8 (2015), https://www.ice.gov/sites/default/files/documents/Report/2016/fy2015removalStats.pdf.

13. Drug Policy Alliance, *The Drug War and Mass Deportation*, 1 (Feb. 2016), https://www.drugpolicy.org/resource/drug-war-and-mass-deportation.

14. *See* Lonegan, *supra*, at 71. (at least 86% of the children affected by a deported mother or father are U.S. citizens); Int'l Human Rights Law Clinic, *supra*, at 4.

The toll of deportation on family members is substantial. Studies show that 70% of family members and deportees exhibit symptoms of post-traumatic stress disorder. Lonegan, *supra*, at 72 ("The most prevalent symptoms experienced . . . were hopelessness/despair, sadness, shock and fear.") (internal citation omitted).

Deportation also imposes enormous harms on noncitizen defendants forced to leave the United States. Deportees may not speak the native language of their birth country, and they may have no practical ability to make a living in their new, forced home. The difficulties of deportation are compounded when the deportee lacks connections to the people and culture of his or her country of origin. Conditions in their home country may also be dangerous or hostile, a factor of special concern for individuals who came to United States as refugees.

Many noncitizen defendants, like Mr. Lee, immigrated to America as children, making the United States the only home they have ever known. The shock and trauma of deportation, for those defendants, is little different than if an American citizen living in the United States their whole lives were suddenly separated from their family and exiled to their family's ancestral country of origin.

For the courts that focus on proof of guilt, all of these harms are irrelevant if strong proof of guilt is found. But that one-sided approach is inconsistent with this Court's long recognition of the devastating humanitarian consequences of deportation. *See I.N.S. v. St. Cyr*, 533 U.S. at 323; *Bridges v. Wixon*, 326 U.S. 135, 164 (1945) ("[T]he impact of deportation upon the life of an alien is often as great, if not greater, than the imposition of a criminal sentence. A deported alien may lose his family,

his friends and his livelihood forever. Return to his native land may result in poverty, persecution and even death.").

To avoid these harms, a criminal defendant has the constitutional right to demand a trial and to reject a guilty plea even if proof of guilt is overwhelming. *See, e.g.*, *Jones v. Barnes*, 463 U.S. 745, 751 (1983) ("the accused has the ultimate authority to make certain fundamental decisions regarding the case, [such] as . . . whether to plead guilty"); *DeBartolo*, 790 F.3d at 778. A narrow prejudice rule, however, effectively denies noncitizen defendants of this core right. An attorney's incompetent advice bars defendants from exercising their constitutional right to demand a trial when a court find strong proof of guilt, a factor that would be irrelevant if counsel had provided accurate advice.

This perverse result lacks support in this Court's precedent. This Court's prior decisions do not limit prejudice to what can be *gained* at trial rather than what is *lost* from a fundamentally misinformed plea. Even if a noncitizen defendant is unlikely to prevail at trial, he has a rational interest in preserving all of his rights. By rejecting a plea, the defendant can pursue other avenues for relief, including negotiating for an alternative plea to a non-deportable offense, *see* Pet. at 20-22. Even if those possibilities are slim and a trial may result in a longer sentence, it would still be rational to pursue other options given the known certainty and harm of pleading guilty to an offense that will result in mandatory deportation. *See United States v. Orocio*, 645 F.3d 630, 645 (3d Cir. 2011); *DeBartolo v. United States*, 790 F.3d 775, 780 (7th Cir. 2015).[15]

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15. State courts have also recognized that it is rational for noncitizen defendants to avoid the known and certain harm of a

Moreover, this Court has also made clear that the relevant prejudice inquiry is guided by "fundamental fairness," not by "mechanical rules" like a test that automatically discounts the harms of deportation when strong proof of guilt is present. *Strickland*, 466 U.S. at 696. At a minimum, the conflict over the correct prejudice test for defendants like Mr. Lee merits this Court's review and resolution.[16]

This is the rare and unusual case where courts and judges throughout the nation are intractably divided over when it is "rational" for defendants to demand a trial given the overwhelming harms of mandatory deportation. The narrow version the *Strickland* prejudice test is also overwhelmingly harmful to immigrant families and communities. The importance of family is deeply embedded in American law, *see supra* at 3, yet when deportation and permanent family separation are at stake, courts like the Sixth Circuit deem it irrational for noncitizen defendants to put their family ties first in deciding whether to take a guilty plea.

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plea leading to mandatory deportation, regardless of whether the defendant can demonstrate a likelihood of success at trial. *See, e.g.*, *Padilla v. Commonwealth*, 381 S.W.3d 322, 329 (Ky. Ct. App. 2012); *People v. De Jesus*, 935 N.Y.S.2d 464, 473 (N.Y. App. Div. 2011); *People v. Guzman*, 24 N.E.3d 831, 841-42 (Ill. App. Ct. 2014) (McDade, J.).

16. Clarification will also be helpful for prosecutors. The government in Mr. Lee's case, for example, initially conceded that prejudice had been established (App.75a). Clear cases of ineffective assistance may be resolved by government consent to vacate prior pleas without protracted litigation. Thus, providing guidance to prosecutors—on a question that caused confusion and a switch in position in Mr. Lee's own case—will be beneficial and avoid burdening courts.

The continued application of a narrow prejudice test further invites profound and irreparable error. Rather, than a case specific, and flexible prejudice inquiry, as this Court intended, *Strickland*, 466 U.S. at 696, courts are encouraged to ignore cultural and individual factors and look only to proof of guilt as the main determinant of the prejudice inquiry. The importance of specific cultural concerns—such as the importance of family within Mr. Lee's South Korean culture, and the expectation that children will care for and support elderly parents, will not be relevant. Jingyuan Ma & Mel Marquis, *Business Culture in East Asia and Implications for Competition Law*, 51 TEX. INT'L L.J. 1, 7-9, 14 (2016). As a result, courts will not consider Mr. Lee's desire to ensure that his elderly parents are cared for in their old age. Mr. Lee's three decades of residence in the United States, as well as the fact that he was a friend, boyfriend, boss, and small business owner within his Tennessee community, and "a productive member of society" also have no weight (App. 10a).

For Mr. Lee and others in his shoes, it is not irrational to exhaust every option and to risk going to trial to avoid the certain harm of exile from the United States and permanent separation from their families. This Court should resolve the conflict among the lower courts and clarify how the *Strickland* prejudice test applies in cases involving mandatory deportation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

APPENDIX — LIST OF *AMICI CURIAE*

Asian Americans Advancing Justice | AAJC is a national nonprofit organization founded in 1991. Based in Washington D.C., Advancing Justice | AAJC works to advance and protect civil and human rights for Asian Americans and to build and promote a fair and equitable society for all. Advancing Justice | AAJC is one of the nation's leading experts on issues of importance to the Asian American community, including immigration and immigrants' rights. Along with our Advancing Justice affiliates, Advancing Justice | AAJC works to promote justice and bring national and local constituencies together through community outreach, public policy advocacy, and litigation.

Asian American Community Services (AACS) is a community-based organization in Central Ohio that seeks to improve the well-being and quality of life of Asian/Pacific Islanders through a broad range of social services, education, and community outreach. Every day, we work to address the various social, linguistic, cultural, and other barriers faced by our clients who consist largely of immigrants and children/grandchildren of immigrants. We understand the critical need to ensure that the civil rights of all immigrants are respected.

Americans for Immigrant Justice ("AI Justice"), formerly Florida Immigrant Advocacy Center, is a non-profit law firm dedicated to promoting and protecting the basic rights of immigrants. Since our founding in 1996, AI Justice has served over 90,000 immigrants from all over the world. Our clients are unaccompanied immigrant

children; survivors of domestic violence, sexual assault, and human trafficking and their children; immigrants who are detained and facing removal proceedings; and immigrants seeking assistance with work permits, legal permanent residence, asylum and citizenship. Our clients also include individuals who have been convicted of criminal offenses, some of whom were provided mistaken legal advice regarding the effects of guilty pleas on their immigration status by former counsel, subjecting them to removal. The issue presented in this matter directly affects part of the population we serve. Part of our mission is to ensure that immigrants are treated justly, and to help bring about a society in which the contributions of immigrants are valued and encouraged. In Florida and on a national level, we champion the rights of immigrants; serve as a watchdog on immigration detention practices and policies; and speak for immigrant groups who have particular and compelling claims to justice.

Asian Services In Action (ASIA) is the largest Asian American & Pacific Islander (AAPI)-focused health and social service non-profit agency in the state of Ohio. For over 20 years, ASIA has taken on the most challenging tasks to help the underserved, low-income, refugee and immigrant communities. ASIA's mission is to empower and advocate for Asian Americans & Pacific Islanders (AAPIs); and to provide AAPIs and other communities with access to health and social services, and culturally and linguistically appropriate information.

The **Asia Law Alliance (ALA)** is a non-profit law office founded in 1977 by law students from Santa Clara

University School of Law. ALA's mission is to provide equal access to the justice system to Asian and Pacific Islanders and low income residents of Santa Clara County. ALA provides legal services in the areas of public benefits, civil rights, domestic violence, landlord and tenant law and immigration law. ALA has a long history of advocating for the civil and legal rights of immigrants.

The **Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)** is an organization with statewide presence in California and national recognition. Our mission is to advance the human, civil rights, and full integration of New Americans and their children into the fabric of our society. CHIRLA advocates on behalf of this community through policy and advocacy, organizing, education, and community building.

The **Fred T. Korematsu Center for Law and Equality (Korematsu Center)** is a non-profit organization based at Seattle University School of Law and works to advance justice through research, advocacy, and education. The Korematsu Center is dedicated to advancing the legacy of Fred Korematsu, who defied the military orders during World War II that ultimately led to the internment of 110,000 Japanese Americans. He took his challenge of the military orders to the United States Supreme Court, which upheld his conviction in 1944 on the ground that the removal of Japanese Americans was justified by "military necessity." Fred Korematsu went on to successfully challenge his conviction and to champion the cause of civil liberties and civil rights for all people. The Korematsu Center, inspired by his example, works to

advance his legacy by promoting social justice for all. It has a special interest in promoting fairness in the courts of our country. That interest includes ensuring effective assistance of counsel, especially when legal advice is given that has consequences relating to the detention or removal of individuals, many of whom have extensive ties to the United States. The Korematsu Center does not, in this brief or otherwise, represent the official views of Seattle University.

The **Illinois Coalition for Immigrant and Refugee Rights (ICIRR)** is a non-profit, nonpartisan statewide organization dedicated to promoting the rights of immigrants and refugees to full and equal participation in the civic, cultural, social, and political life of our diverse society. In partnership with our member organizations, the Coalition educates and organizes immigrant and refugee communities to assert their rights; promotes citizenship and civic participation; monitors, analyzes, and advocates on immigrant-related issues; and, informs the general public about the contributions of immigrants and refugees. ICIRR has advocated for policy changes that protect immigrant families from deportation and separation, and uphold their rights to due process and equal protection under the law.

The **National Asian Pacific American Bar Association (NAPABA)** is the national association of Asian Pacific American attorneys, judges, law professors, and law students, representing the interests of nearly seventy five state and local Asian Pacific-American bar associations and nearly 50,000 attorneys who work in

solo practices, large firms, corporations, legal services organizations, nonprofit organizations, law schools, and government agencies. Since its inception in 1988, the National Asian Pacific American Bar Association has served as the national voice for Asian Pacific Americans in the legal profession and has promoted justice, equity, and opportunity for Asian Pacific Americans. The National Asian Pacific American Bar Association advocates for the rights of immigrants and a fair and function court system, including clarifying the appropriate duties of counsel.

The **National Council of Jewish Women (NCJW)** is a grassroots organization of 90,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. NCJW's Resolutions state that NCJW resolves to work for "Comprehensive, humane, and equitable immigration, refugee, asylum, and naturalization laws, policies, and practices that facilitate and expedite legal status and a path to citizenship for more individuals."

OCA - Asian Pacific Americna Advocates is a national, membership-driven organization dedicated to advancing the social, political, and economic wellbeing of Asian Pacific Americans. Through its 100 chapters and affiliates across the nation, OCA engages in policy advocacy, community organizing, and programming to advance the civil rights of Asian Pacific Americans, including immigrant rights and immigrant integration.

Appendix

South Asian Americans Leading Together (SAALT) is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT is the only national, staffed South Asian organization that advocates for South Asian communities through a social justice framework. SAALT has been a national voice in addressing immigrant rights. The South Asian community includes many who are non-citizens and vulnerable to prejudicial and discriminatory practices within the judicial system that may result in mandatory deportation without fair due process. We and our colleagues who join this brief believe that non-citizen defendants should have accurate legal advice about deportation consequences. We stand with Lee in the pursuit of protecting the rights of immigrants and their families.

The **Southeast Asia Resource Action Center (SEARAC)** is a national organization that advances the interests of Cambodian, Laotian, and Vietnamese American communities who came to this country as the largest group of refugees ever resettled in the United States. Due to challenges upon initial resettlement, SEARAC's communities have historically struggled with high rates of poverty, post-traumatic stress disorder, and poor educational outcomes, funneling many young people into the prison-to-deportation pipeline. SEARAC has been an outspoken advocate in the movement to end unjust, mandatory detention and deportation. We strongly believe in a judicial system that ensures due process for **all** immigrants and refugees, and join our colleagues

in this amicus brief in support of stronger legal protections for the most marginalized communities.

Tennessee Immigrant and Refugee Rights Coalition (TIRRC) is a statewide coalition of immigrants, refugees, and allies working to lift up fundamental American freedoms and human rights and build a strong, welcoming, and inclusive Tennessee. TIRRC supports the request for the Court to grant Mr. Lee's petition for review and to hear his case. Many of our members may be impacted by the narrow prejudice rule that has been adopted by the Sixth Circuit Court of Appeals that would deny relief to non-citizen defendants like Mr. Lee, even if they can prove that their attorneys provided ineffective assistance.

The **Texas Civil Rights Project (TCRP)** uses legal advocacy to empower communities and create policy change in Texas. In its twenty-five year history, TCRP has brought thousands of strategic lawsuits, defending voting rights, fighting institutional discrimination, and reforming systems of criminal justice. TCRP's efforts have helped countless low-income and historically marginalized Texans, including immigrant families. Recently, for example, TCRP settled a lawsuit against the State of Texas for refusing to issue birth certificates to babies born in Texas to undocumented mothers, representing dozens of immigrant families from the Rio Grande Valley and the organization La Unión del Pueblo Entero, and working with Texas Rio Grande Legal Aid. Without birth certificates, families lived in constant fear of separation and could not receive access to basic education, health, religious and childcare services. Given our history, mission

and dedication to advancing equality and justice, TCRP has a strong interest in seeing Mr. Lee's rights vindicated for his own benefit and for that of millions of immigrants and their families throughout the country.